Remarks

Claims 1-34 are pending in this application. Claims 1-2, 6-7, 9-10, 18, and 25 have been amended in various particulars as indicated hereinabove. New Claims 28-34 have been added to alternatively define the invention.

Claim 2 was rejected under 35 U.S.C. 101 as being non-statutory. This rejection is respectfully traversed for the following reasons.

35 U.S.C. 101 states, "Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title." Claim 2 concerns a transmission device, and a device is a machine. Thus, the rejection of claim 2 should be withdrawn.

Claims 2, 6-7, 10 and 18 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 2, 6-7, 10 and 18 have been amended to overcome this rejection.

Claims 1-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Schaar (hereinafter "Van," US Patent Publication 2003/0135863 A1) in view of Feuerstraeter *et al.* (hereinafter "Feu," US Patent Publication 2003/0123393 A1) and in further view of Heller *et al.* (hereinafter "Heller," US Patent Publication 2005/0163073 A1). This rejection is respectfully traversed for the following reasons.

Here, there is no prima facie obviousness. The applied references neither teach nor suggest each and every limitation of the claimed invention.

Independent claims 1, 2, and 25 require setting up and storing entries in a switching table, wherein the entries in the switching table store predetermined transport

parameters including increased transmission speed for at least the duration of the content transmission.

This feature results in improved performance for an entity receiving preferred transport of content in a network. The use of a switching table as part of the network management allows the system to treat content transmission on a per-transmission basis rather than a per-packet basis. See paragraph [0083] of US 2004/0199667, the present application as published.

The Examiner concedes that the combination of Van and Feu does not teach or suggest setting up entries in a switching table identifying the content transmission based on the content provider and the destination, the entries in the switching table specifying the predetermined transport parameters or accessing the switching table to determine the predetermined transport parameters for the content transmission. See pending office action at page 5, second paragraph. The Applicant agrees with this assertion.

The pending Office Action points to Heller at paragraphs [0027-0030] and the abstract to teach the claimed requirements. These sections of Heller, however, do not teach or suggest the claimed requirements.

The pending Office Action is correct that Heller teaches the use data tables to store information. The applied reference, however, teaches that the session services concern protocol conversion or protocol optimization by way of proxy services and header compression. See Heller paragraph [0018]. In contrast, the applied reference does not teach or suggest a switching table that stores predetermined transport parameters including an increased transmission speed for at least the duration of the content transmission.

Thus, the combination of Van, Feu, and Heller fail to teach or suggest each and every element as claimed.

Therefore, the rejection of claims 1, 2, and 25 should be withdrawn.

Claims 9 and 24 further distinguish over the applied references and require authenticating a distribution allowed for the content transmission and a transmission element authorizing only the allowed distribution of the content transmission. This is an important feature because authentication provides a way to verify a content transmission before offering preferred transport of content.

The pending Office Action points to Van at paragraph [0025], [0038], and [0045] to teach the required features. These portions of Van, however, do not teach or suggest the claimed requirements.

These sections of the applied reference are directed toward coding data streams to take advantage of the range of bandwidths or type of data streams of the receivers. The applied reference does not teach authenticating a distribution allowed for the content transmission and a transmission element authorizing only the allowed distribution of the content transmission as claimed.

Thus, the rejections of claims 9 and 24 should be withdrawn.

New claims 28-34 further distinguish over the applied references by requiring a device and method for authenticating a content transmission before offering preferred transport. The features are important because authentication provides a way to verify a content transmission before offering preferred transport of content. The applied references neither teach nor suggest authenticating a content transmission before offering preferred transport of content as claimed.

Lastly, dependent claims 3-24, and 26-34 depend from independent claims 1, 2, or 25 and include additional recitation thereto. The Applicant believes the rejections of claims 3-24 and 26-39 are improper for at least the reasons enumerate above regarding independent claims 1, 2, and 25. Thus, because the rejections of independent claims 1, 2, and 25 are improper, the rejections of dependent claims 3-24, and 26-39 are also improper.

It is believed that the present application is in condition for allowance. A Notice of Allowance is respectfully solicited. Should any questions arise, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,

By /grant houston/
J. Grant Houston
Registration No.: 35,900
Tel.: 781 863 9991
Fax: 781 863 9931

Lexington, Massachusetts 02420
Date: September 28, 2010